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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,934	01/26/2004	David Amirault	ECI06-GN003(920-C1)	9630

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/764,934	Applicant(s) AMIRAULT ET AL. E	
	Examiner Stephen D'Adamo	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 38 and 39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/30/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Newly added claims 37 and 38 are misnumbered and should be renumbered 38 and 39. Further, in the preliminary amendment claims 1-36 were canceled. However, it is the examiner's assumption that claims 1-37, as originally filed, are cancelled since this seems to be the applicant's intent. Therefore, originally filed claim 37 will not be addressed. The claims filed in the preliminary amendment will be referred to as claims 38 and 39 respectively.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 38 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Kain (6,698,838).

Kain discloses a "juvenile seat with a movable arm rest" comprising a body with a seat back 30, a seat pan 26, a pair of pivotably adjustable arm rests 14 coupled to the body and

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located on opposed sides of the body, and a seat belt guide (Figure 1) located on the upper portion of the seat back 30 (not labeled). The armrests 14 also include an aperture 22 therethrough, allowing the armrest to pivot. Moreover, the armrest includes a stop surface 60, which is shaped to engage with an associated bracket, or lower portion 58 of front panel 54 that limits the pivoting motion of the arm rests in the raised storage position.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillies et al. (5,054,853) in view of Chou et al. (6,203,101).

Gillies Discloses an infant safety seat with a seat back 2, a seat pan 3 and a seat belt guide 24. However, Gillies does not disclose pivotal armrests. Chou discloses a pair of armrests with a horizontal pivoting axis, which extends generally transverse to the body of the seat back. The pair of armrests includes an aperture 22 for pivotally coupling to the body. Further, Figure 3 shows stop surfaces 24 and 25 on the armrest that are shaped to engage an associated bracket 13 and 14 to limit pivoting motion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the child safety seat of Gillies with both a pair of armrests at pivot axis 8, as taught by Chou, for providing increased comfort to the user. Furthermore, using pivoting

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armrests on a chair are old and well known in the art. Note, the infant safety chair of Gillies can easily be modified with pivotal armrests at pivot axis 8.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schraeder (EP 576,847) in view of Chou et al. (6,203,101) and Gillies (5,054,853).

Schraeder discloses a safety seat, including a seat back 17 and seat pan for supporting an occupant. Schraeder, however, lacks an adjustable armrest and a seat belt guide. Chou discloses a pair of armrests with a horizontal pivoting axis, which extends generally transverse to the body of the seat back. The pair of armrests includes an aperture 22 for pivotally coupling to the body. Further, Figure 3 shows stop surfaces 24 and 25 on the armrest that are shaped to engage an associated bracket 13 and 14 to limit pivoting motion. The safety seat of Schraeder can easily be modified with pivotal armrests at pivot axis 23. Also, Schraeder's chair already includes a bracket 16 similar to Chou's associated limit bracket 13 and 14. Further, Gillies teaches of a seat belt guide 24. The seat belt guide is coupled to the headrest and upright frame. Schraeder also includes a similar headrest 25 and upright frame 29 and 28. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the safety seat of Schraeder with pivotal arm rests as taught by Chou, as well as, a safety belt guide as taught by Gillies, for providing increased comfort to the user. Furthermore, using pivoting armrests and a safety belt guide on a chair are old and well known in the art.

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Both Kain (6,550,862) and Lemmeyer et al. (6,478,372) show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 7:00-4:30, 2nd Friday 7:00-3:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1018.

SD

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November 10, 2004


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600